

House Bill 354

By: Representatives Walker of the 107th, Cooper of the 41st, Maddox of the 172nd, and Manning of the 32nd

A BILL TO BE ENTITLED
AN ACT

To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to transfer the functions, duties, and employees of the Division of Aging Services of the Department of Human Resources to a newly established Department of Aging; to revise various titles of the Official Code of Georgia Annotated for purposes of conformity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by adding a new chapter to read as follows:

"CHAPTER 6A

49-6A-1.

The Georgia General Assembly finds that Georgia's burgeoning older adult population provides unique opportunities and challenges for the state. Georgia has an unprecedented potential to benefit from the strengths, talents, knowledge, and resources of its growing older adult population. At the same time, the state has a responsibility to address the unique needs and concerns of its older adults and their caregivers and, in keeping with Chapter 6 of this title, to encourage continuous study and research into the needs and problems of older people under present and future economic and social conditions to plan for the prevention of dependency and the conservation of human values. To meet these challenges and capitalize on these opportunities, it is the intent of the General Assembly to create a Department of Aging.

49-6A-2.

As used in this chapter, the term:

(1) 'Board' means the Board of Aging.

(2) 'Commissioner' means the commissioner of aging.

(3) 'Department' means the Department of Aging.

49-6A-3.

(a) There is created the Department of Aging, which shall be the successor entity and continuation of the Division of Aging Services of the Department of Human Resources.

The department shall have the following responsibilities:

(1) To serve as the lead planning agency for all aging issues in this state;

(2) To minimize duplication and maximize administrative efficiency by removing overlapping functions and streamlining and coordinating functions;

(3) To develop an infrastructure that encourages older adults to share their unique strengths, talents, knowledge, and resources with other community members, whether as a volunteer or in a paid position, for the benefit of Georgians of all ages;

(4) To identify the opportunities for synergy among the Department of Aging and other governmental agencies for the mutual benefit of the agencies, their constituencies, and the citizens of Georgia as a whole; and

(5) To simplify the decision-making process to allow the state to respond effectively, efficiently, and in a timely manner to the needs and concerns of older adults and to utilize fully the knowledge and resources they offer.

(b) There is created the position of commissioner of aging. The commissioner shall be the chief administrative officer of the Department of Aging and shall be appointed by and shall serve at the pleasure of the Governor. The commissioner shall receive a salary to be determined by the Governor and shall be in the unclassified service of the state merit system. The commissioner shall not serve simultaneously as the commissioner of any other department. Subject to the general policy and rules and regulations of the board, the commissioner shall supervise, direct, account for, organize, plan, administer, and execute the functions of the Department of Aging.

49-6A-4.

(a)(1) There is created the Board of Aging which shall establish the general policy to be followed by the Department of Aging. The board shall consist of 15 members, with at least one from each of the 12 area agency on aging service areas in this state. The remaining three members shall be selected from the two area agency on aging service areas with the largest concentration of older adults. All members of the board shall be

appointed by the Governor and confirmed by the Senate. The Governor shall make such appointments with a view toward achieving minority representation, representation of women, and equitable geographic representation on the board.

(2) The Governor shall designate the initial terms of the members of the board as follows: five members shall be appointed for two years; five members shall be appointed for three years; and five members shall be appointed for four years. Thereafter, all succeeding appointments shall be for four-year terms from the expiration of the previous term and shall continue until a successor member has been appointed.

(3) Vacancies in office shall be filled by appointment by the Governor in the same manner as the appointment to the position on the board which becomes vacant, and the appointment shall be submitted to the Senate for confirmation at the next session of the General Assembly. An appointment to fill a vacancy, other than by expiration of a term of office, shall be for the balance of the unexpired term.

(4) There shall be a chairperson of the board, elected by and from the membership of the board, who shall be the presiding officer of the board.

(5) The members of the board shall receive per diem and expenses as shall be set and approved by the Office of Planning and Budget and in conformance with rates and allowances set for members of other state boards.

(b) The board shall:

(1) Develop programs to successfully provide services to Georgia's elderly;

(2) Develop initiatives to further the goals of the department's various divisions and offices;

(3) Identify opportunities for synergy with other governmental agencies;

(4) Promote collaborations with other public and private partners to meet the goals identified by the department for engaging Georgia's older adults;

(5) Collaborate with academic institutions to evaluate programs, develop best practices, encourage innovation, and advance further aging research; and

(6) Assure accountability among the department staff, providers of services, public policy makers, and consumers to be served.

(c) The board shall perform duties required of it by this chapter and Chapter 6 of this title and shall, in addition thereto, be responsible for promulgation of all rules and regulations not in conflict with this chapter or Chapter 6 of this title that may be necessary and appropriate to the administration of the department, to the accomplishment of the purposes of this chapter, and to the performance of the duties and functions of the department as set forth in this chapter and Chapter 6 of this title.

(d) The board shall oversee the budget of the department and shall submit an annual request for funding to the Office of Planning and Budget in accordance with Code Section 45-12-78.

49-6A-5.

(a) The Department of Aging shall perform the functions and assume the duties and powers exercised on June 30, 2009, by the Division of Aging Services of the Department of Human Resources. The department shall also assume powers and responsibility with respect to the expenditure of any funds appropriated to the department or the Department of Human Resources as its predecessor including, without being limited to, funds received by the state pursuant to the Older Americans Act of 1965. The divisions of the department shall be:

(1) The Community Care Services Program Section of the Division of Aging Services, as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter be the Division of Community Care Services within the department;

(2) The Program Development and Operations Section of the Division of Aging Services, as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter be the Division of Program Development and Operations within the department;

(3) The Elder Rights and Advocacy Section of the Division of Aging Services, as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter be the Division of Elder Rights and Advocacy within the department;

(4) The Adult Protective Services Section of the Division of Aging Services, as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter be the Division of Adult Protective Services within the department;

(5) The Planning and Evaluation Section of the Division of Aging Services, as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter be the Division of Planning and Evaluation within the department;

(6) The Fiscal and Administrative Section of the Division of Aging Services, as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter be the Division of Fiscal and Administrative Services within the department;

(7) The department may further create a Division of Communities for a Lifetime which shall come into existence on or after July 1, 2009. This division shall work to support older adults' participation in their communities. Specific functions of this division shall be:

(A) To educate Georgia's residents, businesses, and public and private entities about the strengths, talents, knowledge, and resources of Georgia's older adults;

(B) To encourage older adults to become involved in their communities, for the benefit of Georgians of all ages, through volunteerism with local schools, hospitals, charitable organizations, and religious organizations, among others;

(C) To promote liveable communities through consultation with existing resources at the local, county, and state levels to make crucial civic improvements in such areas as housing, health care, transportation, accessibility, business partnerships, community education, and efficient use of natural resources;

(D) To encourage businesses, institutions of higher education, and older Georgians to identify opportunities for intergenerational entrepreneurship collaborations;

(E) To promote the adoption of employment initiatives that would allow older adults to remain active in the work force if they so choose;

(F) To collaborate with local and state agencies and other public and private entities to encourage older Georgians to remain active and healthy through leisure activities available across this state; and

(G) To support and advance aging research initiatives; and

(8) Such other divisions as the board may establish within the department.

(b) The program administrators of the Community Care Services Program Section, the Program Development and Operations Section, the Elder Rights and Advocacy Section, the Adult Protective Services Section, the Planning and Evaluation Section, and the Fiscal and Administrative Section of the Division of Aging Services in office on June 30, 2009, shall become directors of the respective divisions which those predecessor sections have become on and after July 1, 2009, and until such time as the commissioner appoints other directors of such divisions.

(c) There is transferred to the department the long-term care ombudsman program, which shall be a continuation of the existing long-term care ombudsman program established pursuant to Article 3 of Chapter 8 of Title 31.

(d) There is transferred to the department all functions relating to the Georgia Council on Aging created pursuant to Code Section 49-6-20.

49-6A-6.

(a) To assist in the transition of functions, until July 1, 2010, the State Merit System of Personnel Administration shall perform payroll, accounting, and purchasing services and other general support services.

(b) All persons employed in a predecessor section on June 30, 2009, shall, on July 1, 2009, become employees of the department within the division that such predecessor section has become. Such employees shall be subject to the employment practices and policies of the department on and after July 1, 2009, but the compensation and benefits of such transferred

employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees, and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the department.

(c)(1) The department shall conform to federal standards for a merit system of personnel administration in any respects necessary for receiving federal grants, and the board is authorized and empowered to effect such changes as may, from time to time, be necessary in order to comply with such standards.

(2) The department is authorized to employ, on a full-time or part-time basis, such medical, supervisory, institutional, and other professional personnel and such clerical and other employees as may be necessary to discharge the duties of the department under this chapter. The department is also authorized to contract for such professional services as may be necessary.

(3) Classified employees of the department under this chapter shall in all instances be employed and dismissed in accordance with rules of the State Personnel Board.

(4) All personnel of the department shall be authorized to be members of the Employees' Retirement System of Georgia as provided in Chapter 2 of Title 47. All rights, credits, and funds in that retirement system which are possessed by state personnel transferred by provisions of this chapter to the department, or otherwise had by persons at the time of employment with the department, shall be continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the department.

(d) The department shall succeed to all rules, regulations, policies, procedures, and administrative orders of the predecessor agency that were in effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the functions transferred to the department by this chapter. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by proper authority or as otherwise provided by law. Rules of the department shall be adopted, promulgated, and implemented as provided in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(e) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by any predecessor section and which pertain to the functions transferred to the department by this chapter shall continue to exist; and none of these rights, privileges, entitlements, and duties shall be impaired or diminished by reason of the transfer of the functions to the department. In all such instances, the Department of Aging shall be substituted for the predecessor agency, and the Department of Aging shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(f) The commissioner is authorized to transfer department employees from one division to another division within the department.

(g) All office equipment, furniture, and other assets in the possession of the Division of Aging Services, the long-term care ombudsman program, and the Georgia Council on Aging which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the department on July 1, 2009.

(h) Funding for functions and positions transferred to the department under this Code section shall be transferred as provided in Code Section 45-12-90.

(i) Information technology developed for the use of the Division of Aging Services of the Department of Human Resources as it existed on June 30, 2009, including the Aging Information System and other such technology, shall be transferred to the department on July 1, 2009.

49-6A-7.

(a) Subject to approval by the board, the commissioner shall have the power to make and publish reasonable rules and regulations not inconsistent with this title or other laws or with the Constitution of this state or of the United States for the administration of this chapter or any law which it is his or her duty to administer.

(b) The commissioner may prescribe forms as he or she deems necessary for the administration and enforcement of this chapter or any law which it is his or her duty to administer.

(c) The authority granted to the commissioner pursuant to this Code section shall be exercised at all times in conformity with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(d) Rules and regulations previously adopted which relate to functions performed by the Division of Aging Services of the Department of Human Resources as it existed on June 30, 2009, shall remain in full force and effect as rules and regulations of the Department of Aging until amended, repealed, or superseded by rules or regulations adopted by the commissioner of aging. The following rules and regulations shall remain in full force and

effect as rules and regulations of the referenced department until amended, repealed, or superseded by rules or regulations adopted by the referenced department:

(1) All rules and regulations previously adopted by the Community Care Services Program of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging;

(2) All rules and regulations previously adopted by the Program Development and Operations Section of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging;

(3) All rules and regulations previously adopted by the Elderly Rights and Advocacy Section of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging;

(4) All rules and regulations previously adopted by the Office of the State Long-Term Care Ombudsman of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging;

(5) All rules and regulations previously adopted by the Adult Protection Services Section of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging;

(6) All rules and regulations previously adopted by the Planning and Evaluation Section of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging;

(7) All rules and regulations previously adopted by the Fiscal and Administrative Section of the Division of Aging Services of the Department of Human Resources which relate to functions transferred under this chapter to the Department of Aging; and

(8) All other rules and regulations previously adopted which relate to functions transferred under this chapter to the Department of Aging.

(e) All valid licenses, permits, certificates, and similar authorizations previously issued by any department or agency with respect to any function transferred as provided in this chapter shall continue in effect until the same expire by their terms unless they are suspended, revoked, or otherwise made ineffective as provided by law."

SECTION 2.

The following Code sections of the Official Code of Georgia Annotated are amended by striking "Division of Aging Services", "Division of Aging Services of the Department of Human Resources", or "Office of Aging within the Department of Human Resources" wherever such terms occur and inserting in its place "Department of Aging":

- (1) Code Section 10-1-855, relating to referral procedures to provide intervention and assistance with respect to unfair or deceptive practices toward the elderly;
- (2) Code Section 29-10-3, relating to qualifications and requirements of public guardians;
- (3) Code Section 29-10-4, relating to registration of public guardians with the probate court;
- (4) Code Section 29-10-10, relating to compensation of public guardians; and
- (5) Code Section 29-10-11, relating to appropriation of funds for compensation of public guardians in certain circumstances.

SECTION 3.

Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the "Disabled Adults and Elder Persons Protection Act," is amended by revising Code Section 30-5-3, relating to definitions, by adding a new paragraph to read as follows:

"(2.1) 'Commissioner' means the commissioner of aging."

SECTION 4.

Said chapter is further amended in Code Section 30-5-3, relating to definitions, by revising paragraphs (4) and (5) as follows:

~~"(4) 'Department' means the Department of Human Resources~~ Aging.

~~"(5) 'Director' means the director of the Division of Aging Services of the Department of Human Resources, or the director's designee. Reserved."~~

SECTION 5.

Said chapter is further amended by striking "director" and "director's" wherever such terms occur in the following Code sections and inserting in their respective places "commissioner" and "commissioner's":

(1) Code Section 30-5-4, relating to reporting of need for protective services;

(2) Code Section 30-5-5, relating to investigation of reports of need for protective services;

(3) Code Section 30-5-6, relating to cooperation of other public agencies with director; and

(4) Code Section 30-5-7, relating to confidentiality of public records.

SECTION 6.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code Section 31-2-9, relating to a suicide prevention program, by revising subsection (c) as follows:

"(c) The injury prevention section, in implementing the Suicide Prevention Program, shall:

(1) Establish a link between state agencies and offices, including, but not limited to, the department's ~~Division of Aging Services~~, Division of Family and Children Services, and Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the Department of Aging, local government agencies, health care providers, hospitals, nursing homes, and jails to collect data on suicide deaths and attempted suicides;

(2) Work with public officials to improve firearm safety;

(3) Improve education for nurses, judges, physician assistants, social workers, psychologists, and other counselors with regard to suicide education and prevention and expand educational resources for professionals working with those persons most at risk of suicide;

(4) Provide training and minimal screening tools for clergy, teachers and other educational staff, and correctional workers on how to identify and respond to persons at risk of suicide;

(5) Provide educational programs for family members of persons at an elevated risk of suicide;

(6) Develop standardized protocols to be used by the Department of Human Resources in reviewing suicide death scene investigations;

(7) Work to increase the number of follow-back studies of suicides;

(8) Work to increase the number of hospitals that code for external ~~cause of injuries~~ causes of injury;

(9) Implement a state-wide reporting system for reporting suicides;

(10) Support pilot projects to link and analyze information on self-destructive behavior from various, distinct data systems; and

(11) Perform such other tasks as deemed appropriate to further suicide education and prevention in Georgia."

SECTION 7.

Said title is further amended in Code Section 31-5A-4, relating to the powers, duties, functions, and responsibilities of the Department of Community Health, by revising subsection (f) as follows:

"(f) In addition to its other powers, duties, and functions, the department:

(1) Shall be the lead agency in coordinating and purchasing health care benefit plans for state and public employees, dependents, and retirees and may also coordinate with the board of regents for the purchase and administration of such health care benefit plans for its members, employees, dependents, and retirees;

(2) Is authorized to plan and coordinate medical education and physician workforce issues;

(3) Is authorized to convene at least quarterly a state agency coordinating committee ~~comprised~~ composed of the commissioners, directors, chairpersons, or their designees, of the following agencies involved in health related activities: the Department of Human Resources, including the Division of Public Health; and the Division of Mental Health, Developmental Disabilities, and Addictive Diseases; ~~and the Division of Aging Services thereof, the Department of Aging,~~ the Department of Juvenile Justice, the Department of Corrections, the Insurance Department, the State Merit System of Personnel Administration, the State Board of Workers' Compensation, and the Governor's Office of Planning and Budget. The board of regents may also designate a person to serve on the coordinating committee. The committee ~~will~~ shall convene for the purposes of planning and coordinating health issues that have interagency considerations. The commissioner of the department ~~will~~ shall serve as the chairperson of the state agency coordinating committee and ~~will~~ shall report to the Governor the activities, findings, and recommendations of the committee;

(4) Shall investigate the lack of availability of health insurance coverage and the issues associated with the uninsured population of this state. In particular, the department is authorized to investigate the feasibility of creating and administering insurance programs for small businesses and political subdivisions of the state and to propose cost-effective solutions to reducing the numbers of uninsured in this state;

(5) Shall study and recommend any additional functions needed to carry out the purposes of the department, including the creation of a consumer medical advocate. Such recommendations shall be made to the Governor and General Assembly by December 31, 1999;

(6) Is authorized to appoint a health care work force policy advisory committee to oversee and coordinate work force planning activities;

(7) Is authorized to solicit and accept donations, contributions, and gifts and receive, hold, and use grants, devises, and bequests of real, personal, and mixed property on behalf of the state to enable the department to carry out its functions and purposes; and

(8) Is authorized to award grants, as funds are available, to hospital authorities and hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1."

SECTION 8.

Said title is further amended in Code Section 31-8-51, relating to definitions relative to the long-term care ombudsman program, as follows:

"31-8-51.

As used in this article, the term:

(1) 'Commissioner' means the commissioner of aging.

~~(1)~~(2) 'Community ombudsman' means a person certified as a community ombudsman pursuant to Code Section 31-8-52.

(3) 'Department' means the Department of Aging.

~~(2)~~(4) 'Long-term care facility' means any skilled nursing home, intermediate care home, or personal care home now or hereafter subject to regulation and licensure by the department.

~~(3)~~(5) 'Resident' means any person who is receiving treatment or care in any long-term care facility who seeks admission to such facility or who has been discharged or transferred from such facility.

~~(4)~~(6) 'State ombudsman' means the state ombudsman established under Code Section 31-8-52."

SECTION 9.

Said title is further amended in Code Section 31-8-52, relating to the establishment of the long-term care ombudsman program, as follows:

"31-8-52.

Pursuant to the Older Americans Act of 1965 (P.L. 89-73, 79 Stat. 219), as amended, and as a condition of receiving funds under that act for various programs for older citizens of this state, the Department of ~~Human Resources~~ Aging has been required to establish and operate a long-term care ombudsman program. ~~In order to receive such funds, the department has already established a position of state ombudsman within the state Office of Special Programs.~~ The state ombudsman shall be under the direct supervision of the commissioner or his or her designee and shall be given the powers and duties hereafter provided by this article. The state ombudsman shall be a person qualified by training and experience in the field of aging or long-term care, or both. The state ombudsman shall promote the well-being and quality of life of residents in long-term care facilities and encourage the development of community ombudsman activities at the local level. The state ombudsman may certify community ombudsmen and such certified ombudsmen shall have the powers and duties set forth in Code Sections 31-8-54 and 31-8-55. The state ombudsman shall require such community ombudsmen to receive appropriate training as determined and approved by the department prior to certification. Such training shall

include an internship of at least seven working days in a nursing home and at least three working days in a personal care home. Upon certification, the state ombudsman shall issue an identification card which shall be presented upon request by community ombudsmen whenever needed to carry out the purposes of this article. Two years after first being certified and every two years thereafter, each such community ombudsman, in order to carry out his or her duties under this article, shall be recertified by the state ombudsman as continuing to meet the department's standards as community ombudsman."

SECTION 10.

Said title is further amended in Code Section 31-8-53, relating to the duties of the long-term care ombudsman, as follows:

"31-8-53.

The state ombudsman shall:

(1) Establish policies and procedures, subject to approval by the commissioner of human resources, for receiving, investigating, referring, and attempting to resolve complaints made by or on behalf of residents of long-term care facilities concerning any act, omission to act, practice, policy, or procedure that may adversely affect the health, safety, or welfare of any resident;

(2) Investigate and make reports and recommendations to the department and other appropriate agencies concerning any act or failure to act by any government agency with respect to its responsibilities and duties in connection with long-term care or residents of long-term care facilities;

(3) Establish a uniform state-wide reporting system to record data about complaints and conditions in long-term care facilities and shall collect and analyze such data in order to identify significant problems affecting the residents of such facilities;

(4) Promote the development of community ombudsmen activities and provide technical assistance as necessary; and

(5) Make an annual written report, documenting the types of complaints and problems reported by residents, to the ~~director of the Office of Special Programs for his recommendations to the~~ commissioner concerning needed policy and regulatory and legislative changes."

SECTION 11.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended in Code Section 49-1-9, relating to home delivered meals, transportation, services for the elderly, and preschool children with special needs fund, by revising subsections (b) and (c) as follows:

"(b) To support programs for home delivered meals, transportation services for the elderly, and preschool children with special needs ~~which programs that~~ have been established or approved by the department or the Department of Aging, the department and the Department of Aging may, without limitation, promote and solicit voluntary contributions through the income tax return contribution mechanism established in subsection (f) of this Code section, through offers to match contributions by any person with moneys appropriated or contributed to the department or the Department of Aging for such programs, or through any fund raising or other promotional techniques deemed appropriate by the department or the Department of Aging.

(c) There is established a special fund to be known as the 'Home Delivered Meals, Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.' This fund shall consist of all moneys contributed under subsection (b) of this Code section, all moneys transferred to the department under subsection (f) of this Code section, and any other moneys contributed to this fund or to the home delivered meals, transportation services for the elderly, or preschool children with special needs programs of the department or the Department of Aging and all interest thereon. All balances in the fund shall be deposited in an interest-bearing account identifying the fund and shall be carried forward each year so that no part thereof may be deposited in the general treasury. The fund shall be administered and the moneys held in the fund shall be expended by the ~~department through the Office of Aging~~ Department of Aging in furtherance of home delivered meals and transportation services to the elderly programs and by the department in furtherance of preschool children with special needs programs."

SECTION 12.

Said title is further amended in Code Section 49-4-162, relating to the establishment of the Georgia Qualified Long-term Care Partnership Program, by revising subsection (a) as follows:

"(a) In accordance with Section 6021 of the Federal Deficit Reduction Act of 2005, there is established the Georgia Qualified Long-term Care Partnership Program which shall be administered by the Department of Community Health, with the assistance of the Commissioner ~~of Insurance~~ and the Department of ~~Human Resources~~ Aging, and which shall be for the following purposes:

- (1) To provide incentives for individuals to insure against the costs of providing for their long-term care needs;
- (2) To provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under the state Medicaid program without first being required to substantially exhaust their resources;

(3) To provide counseling services through the ~~Division~~ Department of Aging Services of the ~~Department of Human Resources~~ to individuals in planning of their long-term care needs; and

(4) To alleviate the financial burden on the state's Medicaid program by encouraging the pursuit of private initiatives."

SECTION 13.

Said title is further amended in Chapter 6, relating to services for the aging, by adding a new Code section to read as follows:

"49-6-1.1.

As used in this chapter, the term:

(1) 'Board' means the Board of Aging.

(2) 'Commissioner' means the commissioner of aging.

(3) 'Department' means the Department of Aging."

SECTION 14.

Said title is further amended in Code Section 49-6-5, relating to the creation of the Office of Aging Section within the Department of Human Resources, as follows:

"49-6-5.

~~The Office of Aging Section, administratively established previously within the department, is statutorily established. The Office of Aging Section established by this Code section shall have those functions, duties, powers, and responsibilities heretofore assigned by the board and the commissioner and as hereafter so assigned or as provided by law.~~

Reserved."

SECTION 15.

Said title is further amended in Code Section 49-6-20, relating to the creation of the Council on Aging, by revising subsection (a) as follows:

"(a) There is created the Council on Aging. The council shall be composed of 20 members, at least ten of whom shall be consumers of services under programs of the ~~Office of Aging Section of the Department of Human Resources~~ Department of Aging or similar state agencies. The ten consumer members shall include low-income and minority older persons at least in proportion to their number in the population of ~~the~~ this state. The remaining ten members of the council shall be representative of major public and private agencies and organizations in ~~the~~ this state and shall be experienced in or have demonstrated particular interest in the needs of the elderly. The members of the council shall be appointed as follows:

(1) Four consumer members and four members representing public and private agencies and organizations shall be appointed by the Governor;

(2) Two consumer members and two members representing public and private agencies and organizations shall be appointed by the President of the Senate;

(3) Two consumer members and two members representing public and private agencies and organizations shall be appointed by the Speaker of the House; and

(4) Two consumer members and two members representing public and private agencies and organizations shall be appointed by the commissioner."

SECTION 16.

Said title is further amended in Code Section 49-6-60, relating to legislative intent with respect to community care and services for the elderly, as follows:

"49-6-60.

The purpose of this article is to assist functionally impaired elderly persons in living dignified and reasonably independent lives in their own homes or in the homes of relatives or caregivers through the development, expansion, reorganization, and coordination of various ~~community-based~~ community based services. In recognition of the desire of older Georgians to reside at home or with their families as long as possible, the General Assembly intends that a continuum of care be established so that functionally impaired elderly persons age 60 and older may be assured the least restrictive environment suitable to their needs. The General Assembly further intends to maximize the utilization of existing community social and health services in order to prevent unnecessary placement of individuals in long-term care facilities. The development of innovative approaches to program management, staff training, and service delivery that impact on cost avoidance, cost effectiveness, and program efficiency shall be encouraged. It is further the intent of the General Assembly that the Department of ~~Human Resources~~ Aging shall serve as the agency responsible for planning and implementing the provision of ~~community-based~~ community based services to the elderly reimbursable under the 'Georgia Medical Assistance Act of 1977.'

SECTION 17.

Said title is further amended in Code Section 49-6-61, relating to definitions, as follows:

"49-6-61.

As used in this article, the term:

(1) ~~'Aging section' means the single organizational unit within the Department of Human Resources responsible for the planning and administration of services under the Older Americans Act of 1965.~~

(2) 'Department' means the Department of ~~Human Resources~~ Aging.

(3)(2) 'Functionally impaired elderly person' means any person 60 years of age or older with physical or mental limitations that restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently.

(4)(3) The 'Georgia Medical Assistance Act of 1977' means Article 7 of Chapter 4 of this title.

(5)(4) 'Lead agency' means one or more agencies designated by the Department of ~~Human Resources~~ Aging to assess services needed by functionally impaired elderly persons, to coordinate and provide community care services to those persons, to provide case management, and, where necessary, to subcontract with providers of service. A lead agency shall be either a private nonprofit entity or any public entity, including, but not limited to, any organizational unit of the department.

(6)(5) 'Older Americans Act of 1965' means P.L. 92-258, as amended, on July 1, 1982."

SECTION 18.

Said title is further amended in Code Section 49-6-62, relating to the establishment of a community care unit within the aging section, as follows:

"49-6-62.

(a) The department shall establish a ~~community care unit within the aging section~~ division within the department called the Division of Community Care Services. The ~~community care unit~~ Division of Community Care Services shall plan and oversee implementation of a system of coordinated community care and support services for the elderly. The ~~community care unit~~ Division of Community Care Services shall develop uniform assessment criteria that shall be used to determine an individual's functional impairment and to evaluate on a periodic basis the individual's need for community support services or institutionalized long-term care. The ~~community care unit~~ Division of Community Care Services shall also define each community care service and establish standards for the delivery of community care services. Where appropriate, the ~~community care unit~~ Division of Community Care Services shall utilize existing standards and definitions.

(b) The department shall designate specified geographic service areas which shall be defined in such a way as to ensure the efficient delivery of community care services.

(c) The department shall contract with a lead agency to coordinate and provide community care services within each specified geographic service area.

(d) Each lead agency shall annually submit to the ~~community care unit~~ Division of Community Care Services for approval a service plan evaluating the community care needs of the functionally impaired elderly, identifying priority services and target client groups, and detailing the means by which community care services will be delivered for the service

area of that agency. The plan shall also include projected program costs and fees to be charged for services. The lead agency may exclude from the service plan those individuals eligible for benefits under the 'Georgia Medical Assistance Act of 1977,' as amended, for whom there is a reasonable expectation that ~~community-based~~ community based services would be more expensive than services the individual would otherwise receive which would have been reimbursable under the 'Georgia Medical Assistance Act of 1977,' as amended.

(e) The department shall develop a plan which shall provide for the implementation of a community care system in each of the specified geographic service areas by July 1, 1985. The three-year plan shall be developed concurrent with and integrated into the state plan on aging required under the Older Americans Act of 1965 and shall provide for coordination of all ~~community-based~~ community based services for the elderly. The three-year plan shall include an inventory of existing services and an analysis comparing the cost of institutional long-term care and the cost of community care and other ~~community-based~~ community based services for the elderly. ~~The multiyear plan shall be presented to the Board of Human Resources no later than July 31, 1983.~~

(f) At the end of the three-year implementation period, an annual community care service plan shall be incorporated into the state plan on aging.

(g) The department shall submit on January 1 of each year, beginning in 1984, a progress report on the implementation of the plan required by subsection (e) of this Code section to the Speaker of the House of Representatives, the Senate Committee on Assignments, the ~~chairman~~ chairperson of the House Committee on Health and Human Services ~~Committee~~, and the ~~chairman~~ chairperson of the Senate Health and Human Services Committee.

(h) In accordance with rules promulgated by the department, lead agencies may collect fees for community care case management and other services. Such fees shall be established on a sliding scale based upon income and economic need. Fees ~~will~~ shall not be charged those individuals for the mandatory assessment described in subsection (e) of Code Section 49-6-63. Lead agencies may accept contributions of money or contributions in kind from functionally impaired elderly persons, members of their families, or other interested persons or organizations. Such contributions ~~may~~ shall not be a condition of services and shall only be used to further the provision of community care services.

(i) Funding for services under this article shall be in addition to and not in lieu of funding for existing community services for the elderly. The department and the lead agency shall ensure that all other funding sources available, including reimbursement under the 'Georgia Medical Assistance Act of 1977' and the Older Americans Act of 1965, have been used prior to utilizing state funds for community care for the elderly."

SECTION 19.

Said title is further amended in Code Section 49-6-71, relating to the purpose of the "Georgia Family Caregiver Support Act," as follows:

"49-6-71.

The purpose of this article shall be to establish a comprehensive caregiver program which will marshal and integrate available resources and services to provide support and services to caregivers of chronically dependent adults. This article exists to coordinate assistance and maximize available services while maintaining and supporting existing services for caregivers. Such assistance may include:

- (1) Coordination and integration of information and services to caregivers in Georgia, including, but not limited to, insurance and benefits counseling, respite services available under the community care services program, the state respite or adult day-care program, or the Older Americans Act of 1965, as amended, and coordination with educational and other services offered by the caregiver resource center;
- (2) Assistance to the caregiver to assure that supports to the functionally dependent older adult or adult suffering from dementia are adequate and appropriate to maintain these individuals in the home;
- (3) Intermittent, planned, or emergency relief to the caregiver, either directly or through use of other available resources and services;
- (4) Restoration or maintenance of the caregiver's well-being;
- (5) Preservation of the caregiver's informal supports such as family and friends;
- (6) Supportive social services to the caregiver; and
- (7) Affordable services through a cost-sharing mechanism developed by the ~~Division~~ Department of Aging ~~Services of the department~~ for those families whose household incomes do not exceed 400 percent of the federal poverty level."

SECTION 20.

Said title is further amended in Code Section 49-6-72, relating to definitions relative to the "Georgia Family Caregiver Support Act," by revising paragraphs (2) and (4) as follows:

"(2) 'Area agency on aging' means the single local agency designated by the ~~Division~~ Department of Aging ~~Services of the department~~ within each planning and service area to administer the delivery of a comprehensive and coordinated plan of social and other services and activities in the planning and service area."

"(4) 'Department' means the Department of ~~Human Resources~~ Aging."

SECTION 21.

Said title is further amended in Code Section 49-6-81, relating to legislative intent of the "Adult Day Center for Aging Adults Licensure Act," which will be effective upon appropriation of funds, as follows:

"49-6-81.

The intent of the General Assembly is to promote, safeguard, and protect the well-being of adults participating in adult day care or adult day health services by authorizing, promoting, and supporting licensure regulations for adult day care and adult day health services providers. It is further the intent of the General Assembly that the Department of ~~Human Resources~~ Aging shall serve as the agency responsible for promulgating, implementing, and enforcing the licensure regulations."

SECTION 22.

Said title is further amended in Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for Aging Adults Licensure Act," which will be effective upon appropriation of funds, by revising paragraph (5) as follows:

"(5) 'Department' means the Department of ~~Human Resources~~ Aging."

SECTION 23.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 24.

All laws and parts of laws in conflict with this Act are repealed.